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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/050,249	03/30/1998	HARUKI OKAMURA	OKAMURA=2B	6601

1444 7590 07/30/2002

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EXAMINER

JIANG, DONG

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 07/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/050,249

Applicant(s)

OKAMURA ET AL.

Examiner

Dong Jiang

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: _____.


Claim(s) rejected: 93-119.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: the newly amended claim 93 with the addition of the claim limitation of "the same physiochemical properties of (1) to (3)" in lines 5-6 eliminates the sequence requirement present in the previous version, and reads on a functional equivalent of IL-18, with the physiochemical properties of (1) to (3). Such amendment raises new issues that would require further consideration and search. Additionally, the claim is indefinite because it is unclear what it is meant by the new amendment of "partial amino acid sequence possessing the amino acid sequence of SEQ ID NO:2" in part (4) of the claim, whether the term "possessing" means "comprising, and how a partial sequence comprises the whole sequence of SEQ ID NO:2.

Continuation of 5. does NOT place the application in condition for allowance because: the amendment would render claim 93 indefinite for the reasons set forth in item 2 above, and applicants arguments are not deemed persuasive because, for instance, with respect to the rejection under 35 USC 112 first paragraph, applicants argue that "variants of SEQ ID NO:2" are defined in claim 93, parts (a) and (b). However, the major issue is that the specific epitopes of the variants for generating a monoclonal antibody not reacting with SEQ ID NO:2 are not described. Further, as to the prior art rejection, applicants attention is directed to the post filing date publications cited by the Examiner in the last Office Action (paper No. 24, page 6), which are from the same investigators, and further indicate that the protein of the prior art reference is the same as the polypeptide of SEQ ID NO:2 of the instant application. With respect to claim 97, applicants indicate in the response that the claim was previously allowed, has not been amended, and is now rejected, and request that the finality of the last Office Action be withdrawn. The Examiner acknowledges that claim 97 should not have been rejected in the last Office Action (paper No. 24), and it remains allowed. The Examiner would like to thank the applicants for pointing out this issue. This correction does not change the status of the last Office Action as no new ground rejection is made, and it remains final.


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